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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,777	03/31/2004	Michael Varner	VARNERBOX	5231
35000	7590	08/11/2004	EXAMINER	
DAVID J. BREMER 4518 N. DAMEN AVENUE CHICAGO, IL 60525			PARSLEY, DAVID J	
			ART UNIT	PAPER NUMBER
			3643	
DATE MAILED: 08/11/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/813,777	VARNER, MICHAEL	
	Examiner	Art Unit	
	David J Parsley	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 31 March 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-9 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 April 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3-31-04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

Detailed Action

Specification

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

The disclosure is objected to because of the following informalities: it does not contain the applicable headings as listed above.

Appropriate correction is required.

Claim Objections

2. Claim 7 is objected to because of the following informalities: on line 28 of the claim “he” should be - -the- -. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to what “...a commercially-available saddlebag cargo container...” pertains to, in that as seen in applicant’s disclosure on page 6 paragraph [0043], applicant states that certain commercially-available saddlebag cargo carriers have standardized connections to interface with mount brackets and thus the term “certain” implies that there are

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commercially-available cargo containers without these standardized connectors. Thus, there are different types of commercially-available cargo containers and therefore it is unclear to what type of commercially-available cargo container applicant is claiming.

Claims 5-6 and 8-9 depend from rejected claims 4 and 7 and include all of the limitations of claims 4 and 7, thereby rendering these dependent claims indefinite.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to what "...a commercially-available saddlebag mounting bracket..." pertains to, in that as seen in applicant's disclosure on page 6 paragraph [0043], applicant describes a commercially-available mounting bracket and states that there are similar commercially-available mounting brackets and thus the term "similar" implies that there are commercially-available mounting brackets of differing structure. Thus, there are different types of commercially-available mounting brackets and therefore it is unclear to what type of commercially-available mounting brackets applicant is claiming.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,577,646 to White.

Referring to claims 1, 4 and 7, White discloses an animal carrier product for carrying an animal on a cycle, the product being mounted to the cycle at a saddlebag position for increased stability and to accommodate a human passenger while the product is in use, the saddlebox mounting to a commercially available saddlebag mounting bracket that is preattached to the cycle, the saddlebox and a commercially available saddlebag being interchangeably mountable to the saddlebag mounting bracket, the product comprising, a saddlebox – at 10, for holding the animal the saddlebox comprising, an exposed section – see proximate ventilation openings 45 in item 10, the exposed section for exposing the animal to the outside environment, a sheltered section – at the front portion of item 10 (the portion proximate the seat of the cycle as seen in figure 1), the sheltered section for sheltering the animal to the outside environment, the exposed section and the sheltered section connected together – see for example figure 1, so that the animal can move autonomously from the exposed section to the sheltered section and so that the animal can move autonomously from the sheltered section to the exposed section while the product is in use – see for example figure 1, and mounting means – at 18,22,61,65, for mounting the product to the cycle at the saddlebag position, the mounting means being configured to enable the saddlebox – at 10, to mount to the commercially-available saddlebag bracket – at 17 and 58-65, that is pre-attached to the cycle – see for example figure 1 and column 3 lines 55-67 and column 4 lines 1-27, and to mount interchangeably with a commercially-available saddlebag cargo container – see for example figure 1. White further discloses the mounting means comprising a hook – at 17, for hooking to the commercially-available saddlebag bracket – at 58-

65, and a saddlebox fastener – at 53-56, configured to connect to a bracket fastener – at 61-66, the bracket fastener being part of the commercially-available saddlebag bracket – see for example figures 1-8.

Referring to claims 2, 5 and 8, White discloses a window – at 30 or the front of item 10, the window being connected to the exposed section – see figure 1, the window being substantially transparent and the window enabling the animal to view the outside environment – see for example column 3 lines 20-55.

Referring to claims 3, 6 and 9 White discloses a deflector – at the back of item 10, the deflector being connected to the product so that the deflector deflects direct sunlight and deflects strong wind from entering the exposed section – see for example figure 1 and column 3 lines 20-55.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by FR Patent No. 2698335.

Referring to claims 1 and 4, the French patent discloses an animal carrier product for carrying an animal on a cycle, the product being mounted to the cycle at a saddlebag position for increased stability and to accommodate a human passenger while the product is in use, the product comprising, a saddlebox – at 7, for holding the animal the saddlebox comprising, an exposed section – at 1-6, the exposed section for exposing the animal to the outside environment, a sheltered section – at the inside of 7, the sheltered section for sheltering the animal to the outside environment, the exposed section and the sheltered section connected together – see for example figures 1-4, so that the animal can move autonomously from the exposed section to the sheltered section and so that the animal can move autonomously from the sheltered section to the

exposed section while the product is in use – see for example figures 1-4, and mounting means – see at the bottom of item 7 in figure 4, for mounting the product to the cycle at the saddlebag position, the mounting means being configured to enable the saddlebox – at 7, to mount interchangeably with a commercially-available saddlebag cargo container – see for example figures 1-4.

Referring to claims 2 and 5, the French patent discloses a window – at 1-3, the window being connected to the exposed section, the window being substantially transparent and the window enabling the animal to view the outside environment – see for example figures 1-4 and the English abstract.

Referring to claims 3 and 6, the French patent discloses a deflector – at the rear of item 7 as seen in figure 4, the deflector being connected to the product so that the deflector deflects direct sunlight and deflects strong wind from entering the exposed section – see for example figure 4.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the French patent in view of White.

Referring to claim 7, the French patent discloses an animal carrier product for carrying an animal on a cycle, the product being mounted to the cycle at a saddlebag position for increased stability and to accommodate a human passenger while the product is in use, the saddlebox mounting to a commercially-available saddlebag mounting bracket that is preattached to the cycle, the saddlebox and a commercially-available saddlebag being interchangeably mountable to the saddlebag mounting bracket, the product comprising, a saddlebox – at 7, for holding the animal the saddlebox comprising, an exposed section – at 1-6, the exposed section for exposing the animal to the outside environment, a sheltered section – at the inside of 7, the sheltered section for sheltering the animal to the outside environment, the exposed section and the sheltered section connected together – see for example figures 1-4, so that the animal can move autonomously from the exposed section to the sheltered section and so that the animal can move autonomously from the sheltered section to the exposed section while the product is in use – see for example figures 1-4, and mounting means – see at the bottom of item 7 in figure 4, for mounting the product to the cycle at the saddlebag position, the mounting means being configured to enable the saddlebox – at 7, to mount to the commercially-available saddlebag bracket that is pre-attached to the cycle and to mount interchangeably with a commercially-available saddlebag cargo container – see for example figures 1-4. The French patent does not disclose the mounting means comprising a hook for hooking to the commercially-available saddlebag bracket and a saddlebox fastener, the saddlebox fastener being configured to connect to a bracket fastener the bracket fastener being part of the commercially-available saddlebag bracket. White does disclose the mounting means comprising a hook – at 17, for hooking to the commercially-available saddlebag bracket – at 58-65, and a saddlebox fastener – at 53-56,

configured to connect to a bracket fastener – at 61-66, the bracket fastener being part of the commercially-available saddlebag bracket – see for example figures 1-8. Therefore it would have been obvious to one of ordinary skill in the art to take the device of the French patent and add the mounting means of White, so as to allow for the saddlebox to be securely mounted to the cycle during use.

Referring to claim 8, the French patent as modified by White further discloses a window – at 1-3 of the French patent, the window being connected to the exposed section, the window being substantially transparent and the window enabling the animal to view the outside environment – see for example figures 1-4 and the English abstract of the French patent.

Referring to claim 9, the French patent as modified by White further discloses a deflector – at the rear of item 7 as seen in figure 4 of the French patent, the deflector being connected to the product so that the deflector deflects direct sunlight and deflects strong wind from entering the exposed section – see for example figure 4 of the French patent.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to vehicle-mounted animal carriers in general:

U.S. Pat. No. 4,010,880 to Guillot-Munoz – shows animal carrier

U.S. Pat. No. D276,713 to Schacter – shows cycle mounted animal carrier

U.S. Pat. No. 4,781,147 to Delino – shows animal carrier

U.S. Pat. No. 5,305,710 to Ward – shows cycle mounted animal carrier

U.S. Pat. No. 5,406,816 to Thomas – shows cycle-mounted carrier

U.S. Pat. No. 5,419,281 to Williams et al. – shows animal carrier

U.S. Pat. No. 5,487,554 to May – shows cycle-mounted carrier

U.S. Pat. No. 5,718,191 to O'Donnell – shows cycle mounted animal carrier

U.S. Pat. No. 6,179,183 to Kloster – shows cycle mounted animal carrier

U.S. Pat. No. 6,196,161 to Thurber – shows animal carrier

U.S. Pat. No. 6,293,450 to Aron – shows saddlebox mount bracket for cycle

U.S. Pat. No. 6,378,643 to Galbraith et al. – shows saddlebox mount for cycle

U.S. Pat. No. 6,520,275 to Galbraith et al. – shows saddlebox mount for cycle

U.S. Pat. Appl. Pub. No. 2003/0127060 – shows animal carrier

U.S. Pat. No. 6,725,807 to Tapia – shows vehicle mounted animal carrier

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

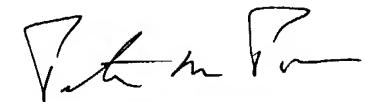
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Parsley
Patent Examiner
Art Unit 3643



PETER M. POON
SUPERVISORY PATENT EXAMINER

